

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
DETROIT DIVISION**

RICARDO BOOZER,

Plaintiff,

vs.

ENHANCED RECOVERY COMPANY,  
LLC,

Defendant.

CASE NO. 2:17-CV-14190

Hon. Paul D. Borman  
United States District Judge

Hon. Elizabeth A. Stafford  
United States Magistrate Judge

**DECLARATION OF RICHARD “ROCKY” LANDOLL IN SUPPORT OF  
DEFENDANT’S RULE 56 MOTION FOR SUMMARY JUDGMENT**

I, Richard “Rocky” Landoll, declare that I am familiar with the facts set forth in this declaration by own knowledge and if called upon I could and would completely testify thereto.

1. I am the Director of Legal for Enhanced Recovery Company, LLC (“ERC”).

Prior to assuming that position, I was the Legal and License Officer at ERC. I have been employed with ERC since 2009.

2. ERC is a company that services debts on behalf of its clients.

3. I have reviewed the records regarding ERC’s contact with Plaintiff, RICARDO BOOZER (“Plaintiff”), and listened to audio recordings associated with telephone number ending in 4908. The records I have reviewed and the audio recordings I listened to were maintained in the usual course of business.

4. ERC maintains account notes for each account it services. The account notes are kept in the regular course of business and are prepared contemporaneously with the events

described. The account notes reflect a complete description the actions taken (e.g., telephone calls, letters sent and received, etc.) with respect to a particular account. Attached hereto as Exhibit 1 is a true and correct redacted copy of the account notes for the third party debtor.

5. On November 25, 2013, ERC was retained by its client to collect a T-Mobile debt owed by a third party.

6. When the account was placed with ERC, ERC was provided with information pertaining to the debt, including the name of the third party debtor, the third party debtor's contact information and the amount of the debt owed.

7. As part of its policies and procedures, ERC routinely conducts telephone number scrubs to find telephone numbers that are associated with the person ERC is attempting to reach.

8. On November 25, 2013, ERC conducted a scrub of the third party debtor's telephone number through a vendor that is generally used by other businesses in the same industry as ERC for scrubbing telephone numbers.

9. The scrub results revealed that there was a high probability that telephone number ending in 4908 was associated with the intended third party debtor.

10. From September 23, 2017 through November 28, 2017, ERC placed a total of eleven (11) calls to a phone number ending in 4908 in an attempt to reach the intended third party debtor.

11. Out of the 11 calls, ERC's representatives spoke to someone believed to be Plaintiff twice on November 28, 2017.

12. The first conversation took place on November 28, 2017, at 1:47 p.m. ("first conversation"), when ERC's representative made an **outgoing call** to telephone number ending

in 4908 in an attempt to reach the intended third party debtor. I listened to the November 28, 2017, at 1:47 p.m. audio recording, which is 22 seconds long.

13. The following conversation took place during the November 28, 2017, at 1:47 p.m. call:

**ERC Agent:** Good afternoon. My name is Nicky Freeman.  
Speaking on a recorded line. Am I speaking to [third party debtor]?

**Plaintiff:** No, you have the wrong number.

**ERC Agent:** Okay, sorry to bother you. I will remove the wrong number, ok?

**Plaintiff:** Ok, bye.

**ERC Agent:** Okay, bye

14. Immediately after the call first conversation on November 28, 2017, at 1:47 p.m., ERC updated its records, removed telephone number ending in 4908 from third party debtor's account, and ceased contacting telephone number ending in 4908.

15. The November 28, 2017, at 13:47 entry in ERC's account notes (attached hereto as Exhibit 1) reads, "1114: tpd mop wrn#". This means Third Party Man on Phone Wrong Number.

16. The November 28, 2017, at 13:48 entry ERC's account notes (attached hereto as Exhibit 1) reads, "Line4 Ph Removed: \*\*\*\*\*4908". This is means that the phone number ending in 4908 was removed from that account since it was deemed to be a wrong number as explained by the third party we spoke to.

17. ERC maintains audio recordings of connected calls. The audio recordings are kept in the regular course of business.

18. The second conversation took place on November 28, 2017, at 5:50 p.m. ("second call"), when ERC received an **incoming call** from telephone number ending in 4908. I

listened to the November 28, 2017, at 5:50 p.m. audio recording, which is 1 minute and 40 seconds long.

19. On November 28, 2017, at 5:50 p.m. (a little over 4 hours **after** ERC spoke with Plaintiff (presumably) earlier in the day at 1:47 p.m.), ERC received an incoming call from Plaintiff (presumably).

20. The following conversation took place during the November 28, 2017, at 5:50 p.m. call:

**ERC's Agent:** Good afternoon. Thank you for calling ERC. My name is Jasper Smith on a recorded line. How can I help you today?

**Plaintiff:** Ya, I got a call from you guys earlier

**ERC's Agent:** Okay. Do you receive the call at the same number as you are calling?

**Plaintiff:** Area code [provides telephone number ending 4908]

**ERC's Agent:** Um, okay. Well, uh, this number sir, the number that you're calling, um, I don't have any information on this number. Do you have any other number where we called you?

**Plaintiff:** Uh, nope. I got several calls from this number.

**ERC's Agent:** Okay, but the number you are calling right now I don't have any information or I don't have any details with this number.

**Plaintiff:** So...

**ERC's Agent:** Perhaps do you have another number?

**Plaintiff:** No [provides telephone number ending 4908]

**ERC's Agent:** Okay, ya, um, I'm sorry sir. We don't have any details with this number.

**Plaintiff:** Okay

**ERC's Agent:** Okay, ya. [inaudible] I don't have any information [inaudible] okay

**Plaintiff:** Okay, sir, thanks.

**ERC's Agent:** Thank you for calling sir. Ba-bye

21. It was later determined that the reason why telephone number ending in 4908 did not come up in ERC's system at the time of the second conversation was because ERC *had already updated its file and removed 4908 from its system*. It did so because Plaintiff advised during the first conversation earlier in the day that ERC was calling the wrong number.

22. ERC did not place any outgoing calls to telephone number ending in 4908 after the first conversation on November 28, 2017, at 1:47 p.m.

23. All of the calls made to telephone call ending in 4908 were made using the LiveVox Manual System outbound dialing system.

24. ERC never left a voice message when it called telephone number ending in 4908.

25. All of the calls placed by ERC to telephone number ending in 4908 were made with human intervention and not through the use of an automatic telephone dialing system or prerecorded or automated voice.

26. ERC made no more than one call in a single day to telephone number ending in 4908.

27. ERC never placed back-to-back calls (e.g., one call immediately after another) to telephone number ending in 4908 at any time.

28. ERC never called Plaintiff before 8 a.m. EST or after 9 p.m. EST.

29. ERC has never sent a collection letter, or any other correspondence to Plaintiff. Indeed, ERC had no reason to send Plaintiff a collection letter or call him because Plaintiff was not a consumer that ERC attempted to collect a debt from.

30. ERC trains its collectors on the requirements of the Fair Debt Collection Practices Act, 15 U.S.C. Section 1692, et seq. and state debt collection laws. Each collector undergoes

rigorous training and testing before he or she is permitted to collect a debt. The collectors are regularly monitored to ensure compliance with federal and state laws, including debt collection laws.

31. ERC has policies and procedures in place when it learns or is informed that the telephone number it has for a debtor is a wrong number. Upon notification of a wrong number, ERC's agent will promptly remove the phone number from the account to prevent any further calls to that number for that specific account. These procedures were in place at the time of ERC's calls to Plaintiff. Attached hereto Exhibit 2 is true and correct copy of a page from ERC's policies and procedures related to wrong party contact.

I declare under penalty of perjury under the laws of the State of Michigan and the United State of America that the foregoing is true and correct and that this declaration was executed on May 1, 2019, at Jacksonville, Florida.

*Rocky Landoll*

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Richard "Rocky" Landoll

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing DECLARATION OF RICHARD “ROCKY” LANDOLL IN SUPPORT OF DEFENDANT’S RULE 56 MOTION FOR SUMMARY JUDGMENT, was served via the court’s electronic filing system on May 1, 2019, on the following:

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s/ Larissa G. Nefulda

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